

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In Re:

EDITH WHEELER

Debtor

**OBJECTION TO
CONFIRMATION**

Chapter 13

Case No. 10-22547-RDD

Randa R. Simmons, an attorney duly licensed to practice law in the State of New York and admitted in the Southern District of New York, affirms the following to be true, under penalty of perjury:

1. I am an associate of the firm of Steven J. Baum, P.C., attorneys for the Secured Creditor, PNC Bank, National Association sbm to National City Bank sbm to Fidelity Federal Bank & Trust ("PNC Bank, National Association").

2. This Affirmation is submitted for the purpose of objecting to confirmation of the Chapter 13 Plan proposed by Edith Wheeler (the "Debtor").

3. PNC Bank, National Association is a creditor secured by real property owned by the Debtor commonly known as 1881 Sweljah Avenue, Port St. Lucie, FL 34953 ("the Mortgaged Premises").

4. The total debt due to PNC Bank, National Association is approximately \$384,303.26. A Proof of Claim is currently being prepared on behalf of PNC Bank, National Association, and will be filed in due course. However, upon information and belief, pre-petition arrears owed are in the approximate amount of \$70,724.19.

5. The Debtor's proposed plan improperly subjects the lien of PNC Bank, National Association to valuation under 11 U.S.C. §506(a). The plan proposes to reduce the secured claim of PNC Bank, National Association to \$327,700.55.

6. Debtor's proposed Schedule D of the Debtor's Voluntary Petition claims that the value of the property is \$180,000.00 and that the lien of PNC Bank, National Association is unsecured in the amount of \$147,700.55. PNC Bank, National Association is entitled to refute this allegation and requests access to the Mortgage Premises for the purpose of conducting a full appraisal.

7. Additionally, the Debtor's proposed Plan fails to provide for full payment of the pre-petition mortgage arrears and post-petition mortgage payments due to PNC Bank, National Association. The Plan must propose to pay full payment of pre-petition arrears and post-petition mortgage payments in order for PNC Bank, National Association to retain its lien.

8. By virtue of the foregoing, confirmation of the Debtor's proposed Chapter 13 Plan must be denied pursuant to 11 U.S.C. §1325.

Dated: Buffalo, New York
May 17, 2010

/s/ Randa R. Simmons

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